

ESTTA Tracking number: **ESTTA722798**

Filing date: **01/26/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|------------------------|--|
| Proceeding | 91225672 |
| Party | Plaintiff Gap (Apparel), LLC |
| Correspondence Address | James D. Weinberger Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza6th Floor New York, NY 10017 UNITED STATES jweinberger@fzlz.com, fkohn@fzlz.com |
| Submission | Other Motions/Papers |
| Filer's Name | James D. Weinberger |
| Filer's e-mail | jweinberger@fzlz.com, fkohn@fzlz.com |
| Signature | /s/ James D. Weinberger |
| Date | 01/26/2016 |
| Attachments | Stip (CLOSE THE GAP) (F1863467x96B9E).pdf(80136 bytes) |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

GAP (APPAREL), LLC,

Opposer,

-against-

CLOSE THE GAP, INC.,

Applicant.

Opposition No. 91225672

**MOTION ON CONSENT (a) TO PERMIT POST-PUBLICATION
AMENDMENT; (b) TO SUSPEND OPPOSITION; and (c) FOR
CONDITIONAL DISMISSAL OF OPPOSITION WITHOUT PREJUDICE**

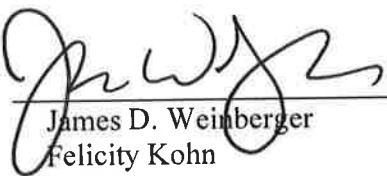
Opposer Gap (Apparel), LLC (“Opposer”) and applicant close the gap, Inc. (“Applicant”) hereby move to amend the mark CLOSE THE GAP, as contained in Application Serial No. 86/601,819, which application is the subject of the opposition; to suspend the opposition pending the Board’s review and anticipated approval of the amendment; and to dismiss the opposition without prejudice conditioned upon acceptance of the amendment.

Applicant requests that Application Serial No. 86/601,819 be amended to add the following disclaimer: “NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE “GAP” APART FROM THE MARK AS SHOWN.” Because this proposed amendment is in the nature of a limitation and no re-publication would be required, it is respectfully submitted that it is permissible.

Opposer and Applicant also jointly move to suspend the above-referenced opposition pending review of the proposed amendments. The parties further consent that upon the approval and entry of the proposed amendment to Application Serial No. 86/601,819, the opposition and all claims asserted therein be dismissed without prejudice.

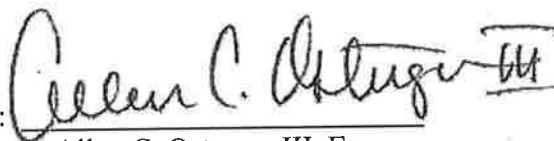
Dated: New York, New York
January 26th, 2016

FROSS ZELNICK LEHRMAN
& ZISSU, PC

By: 
James D. Weinberger
Felicity Kohn
866 United Nations Plaza
New York, New York 10017

Attorneys for Opposer

OSTERGAR LAW GROUP PC

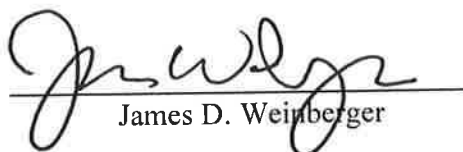
By: 
Allen C. Ostergar III, Esq.
27101 Puerta Real, Suite 450
Mission Viejo, CA 92691

Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of January, 2016, I have caused a copy of the foregoing **MOTION ON CONSENT (a) TO PERMIT POST-PUBLICATION AMENDMENT; (b) TO SUSPEND OPPOSITION; and (c) FOR CONDITIONAL DISMISSAL OF OPPOSITION WITHOUT PREJUDICE** to be sent by email, on agreement to Applicant's Correspondent of Record at the following address:

Allen C. Ostergar III, Esq.
Ostergar Law Group PC
27101 Puerta Real, Suite 450
Mission Viejo, CA 92691
aostergar@ostergar.com


James D. Weinberger